

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against: )**

**JOHN EDWARD HUMISTON, M.D. )**

**File No. 8002015014545**

**Physician's and Surgeon's )  
Certificate No. A 83402 )**

**Respondent )**

**DECISION AND ORDER**


**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on February 22, 2019.**

**IT IS SO ORDERED January 24, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

**By:**

  
**Ronald H. Lewis, M.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 LEANNA E. SHIELDS  
Deputy Attorney General  
4 State Bar No. 239872  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant,*

10 **BEFORE THE**  
11 **MEDICAL BOARD OF CALIFORNIA**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **JOHN EDWARD HUMISTON, M.D.**  
16 **3636 Fifth Avenue, Suite 300**  
**San Diego, CA 92103**

17 **Physician's and Surgeon's Certificate**  
18 **No. A 83402,**

19 Respondent.

Case No. 8002015014545

OAH No. 2018050340

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

20  
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
25 of California (Board). She brought this action solely in her official capacity and is represented in  
26 this matter by Xavier Becerra, Attorney General of the State of California, by LeAnna E. Shields,  
27 Deputy Attorney General.

28 ///

2. Respondent John Edward Humiston, M.D. (Respondent) is represented in this proceeding by attorney Robert W. Frank, Esq., whose address is: 110 West A Street, Suite 1200 San Diego, CA 92101-4959.

3. On or about June 4, 2003, the Board issued Physician's and Surgeon's Certificate No. A 83402 to Respondent. The Physician's and Surgeon's Certificate No. A 83402 was in full force and effect at all times relevant to the charges brought in Accusation No. 8002015014545, and will expire on October 31, 2020, unless renewed.

## JURISDICTION

4. On or about March 7, 2018, Accusation No. 8002015014545 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 7, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 8002015014545 is attached as Exhibit A and incorporated by reference as if fully set forth herein.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 8002015014545. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary  
2 Order or of any matter or matters related hereto.

3 **ADDITIONAL PROVISIONS**

4 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
5 be an integrated writing representing the complete, final and exclusive embodiment of the  
6 agreements of the parties in the above-entitled matter.

7 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,  
8 including copies of the signatures of the parties, may be used in lieu of original documents and  
9 signatures and, further, that such copies shall have the same force and effect as originals.

10 14. Respondent agrees that his Physician's and Surgeon's Certificate No. A 83402 is  
11 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth  
12 in the Disciplinary Order below.

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 83402 issued  
15 to Respondent John Edward Humiston, M.D. shall be and is hereby Publicly Reprimanded  
16 pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This  
17 Public Reprimand, which is issued in connection with Accusation No. 8002015014545, is as  
18 follows:

19 From on or about October 17, 2016, through on or about October 20, 2016, Respondent  
20 committed gross negligence in his care and treatment of Patient A, a family member.

21 1. **EDUCATION COURSE.** Within one (1) year of the effective date of the Decision,  
22 Respondent shall complete not be less than twenty (20) hours of Continuing Medical Education  
23 (CME). The CME courses shall be aimed at correcting any areas of deficient practice. The  
24 twenty (20) hours of CME shall be at respondent's expense and shall be in addition to the CME  
25 requirements for renewal of licensure. Respondent shall submit proof of completion to the Board  
26 or its designee.

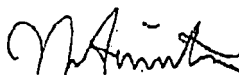
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Robert W. Frank, Esq. I fully understand the stipulation and the  
4 effect it will have on my Physician's and Surgeon's Certificate No. A 83402. I enter into this  
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
6 to be bound by the Decision and Order of the Medical Board of California.

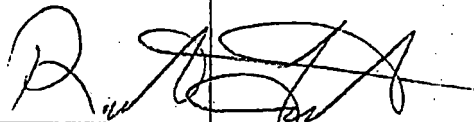
7  
8 DATED: 15 Oct, 2018



9 JOHN EDWARD HUMISTON, M.D.  
Respondent

10 I have read and fully discussed with Respondent John Edward Humiston, M.D. the terms  
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
12 Order. I approve its form and content.

13  
14 DATED: 10-16-2018



15 ROBERT W. FRANK, ESQ.  
Attorney for Respondent

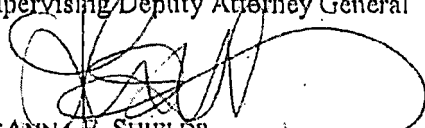
16  
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the Medical Board of California.

20  
21 Dated: Oct. 16, 2018

Respectfully submitted,

22 XAVIER BECERRA  
Attorney General of California  
23 MATTHEW M. DAVIS  
Supervising Deputy Attorney General

24   
25 LEANNA E. SHIELDS  
26 Deputy Attorney General  
Attorneys for Complainant

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28 71629956.docx

**Exhibit A**

**Accusation No. 8002015014545**

XAVIER BECERRA  
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MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
LEANNA E. SHIELDS  
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*Attorneys for Complainant*

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 8002015014545

**JOHN EDWARD HUMISTON, M.D.**  
3636 Fifth Avenue, Suite 300  
San Diego, CA 92103

**A C C U S A T I O N**

Physician's and Surgeon's Certificate  
No. A 83402,

Respondent.

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about June 4, 2003, the Medical Board issued Physician's and Surgeon's Certificate No. A 83402 to John Edward Humiston, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2018, unless renewed.



## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

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1       5.     Section 2234 of the Code states, in pertinent part:

2             “The board shall take action against any licensee who is charged with  
3     unprofessional conduct. In addition to other provisions of this article, unprofessional  
4     conduct includes, but is not limited to, the following:

5             “(a) Violating or attempting to violate, directly or indirectly, assisting in or  
6     abetting the violation of, or conspiring to violate any provision of this chapter.

7             “(b) Gross negligence.

8             “(c) Repeated negligent acts. To be repeated, there must be two or more  
9     negligent acts or omissions. An initial negligent act or omission followed by a  
10    separate and distinct departure from the applicable standard of care shall constitute  
11    repeated negligent acts.

12            “(1) An initial negligent diagnosis followed by an act or omission medically  
13    appropriate for that negligent diagnosis of the patient shall constitute a single  
14    negligent act.

15            “(2) When the standard of care requires a change in the diagnosis, act, or  
16    omission that constitutes the negligent act described in paragraph (1), including, but  
17    not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
18    licensee’s conduct departs from the applicable standard of care, each departure  
19    constitutes a separate and distinct breach of the standard of care.

20            “...”

21                               **FIRST CAUSE FOR DISCIPLINE**

22                               **(Gross Negligent Acts)**

23       6.     Respondent has subjected his Physician’s and Surgeon’s Certificate No. A 83402 to  
24    disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (b), of the  
25    Code, in that he committed gross negligence in his care and treatment of Patient A, as more  
26    particularly alleged hereinafter:

27    ///

28    ///

1           7.     On or about October 17, 2016, Patient A,<sup>1</sup> a family member of respondent who has a  
2 history of various medical conditions including bacterial endocarditis,<sup>2</sup> began displaying flu-like  
3 symptoms. Respondent treated Patient A with intravenous fluids and Ozone therapy.<sup>3</sup>

4           8.     On or about October 18, 2016, respondent again treated Patient A with intravenous  
5 fluids and Ozone therapy.

6           9.     On or about October 19, 2016, Patient A's symptoms seemingly improved, but then  
7 on or about October 20, 2016, Patient A's symptoms worsened. On or about October 20, 2016,  
8 respondent treated Patient A with intravenous fluids and Ozone therapy.

9           10.    In the evening of October 20, 2016, Patient A's condition continued to decline and  
10 respondent brought Patient A to the emergency department at R.C.H.

11          11.    At no time during did respondent order laboratory testing to assess Patient A.

12          12.    Upon presentation at the emergency department, Patient A was determined to be in  
13 septic shock, respiratory distress and hypovolemic shock. Further evaluation revealed vegetation  
14 of Patient A's tricuspid valve and acute renal failure.

15          13.    Respondent committed gross negligence in his care and treatment of Patient A, which  
16 included but was not limited to:

17               A. Involving himself in the medical care of a family member, Patient A; and

18               B. Failing to refer Patient A to a higher level of medical intervention in a timely  
19 manner.

## 20                               **SECOND CAUSE FOR DISCIPLINE**

### 21                               **(Repeated Negligent Acts)**

22          14.    Respondent has further subjected his Physician's and Surgeon's Certificate No. A  
23 83402 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (c), of

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26               <sup>1</sup> Patient names are withheld to protect privacy interests.

27               <sup>2</sup> Bacterial endocarditis is an infection of the heart's valves or inner lining.

28               <sup>3</sup> Ozone therapy is a form of alternative medicine treatment that increases the amount of oxygen  
by introducing ozone into the body.

1 the Code, in that he committed repeated negligent acts in his care and treatment of Patients A and  
2 B, as more particularly alleged hereinafter:

3 15. On or about July 21, 2014, Patient B, who was undergoing chemotherapy for stage 3  
4 breast cancer, presented for integrative cancer management.

5 16. Respondent recommended Patient B use a product called Safinur<sup>4</sup> and an anti-  
6 Candida<sup>5</sup> supplement protocol. Following respondent's recommendation, Patient B purchased a  
7 one-month supply of Safinur and anti-Candida supplements.

8 17. Patient B subsequently conducted research but was unable to locate any information  
9 regarding Safinur or the anti-Candida supplement protocol.

10 18. Respondent committed repeated negligent acts in his care and treatment of Patients A  
11 and B, which included but was not limited to:

12 A. Paragraphs 6 through 13, above, are hereby incorporated by reference and  
13 realleged as if fully set forth herein; and

14 B. Failing to provide Patient B with adequate information regarding Safinur and the  
15 anti-Candida supplement protocol to make an informed decision.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Violation of a Provision or Provisions of the Medical Practice Act)**

18 19. Respondent has further subjected his Physician's and Surgeon's Certificate No. A  
19 83402 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (a), of  
20 the Code, in that he committed a violation of a provision or provisions of the Medical Practice  
21 Act, as more particularly alleged in paragraphs 6 through 18, above, which are hereby  
22 incorporated by reference and realleged as if fully set forth herein.

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27 <sup>4</sup> Safinur, *ligustrum japonicum*, is used in alternative medicine for its anti-tumor properties.

28 <sup>5</sup> Candida, *candida albicans*, refers to the overgrowth of yeast or fungus in the body.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

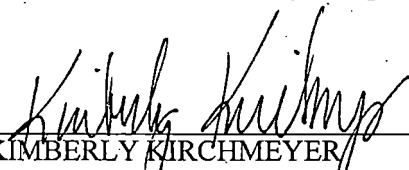
1. Revoking or suspending Physician's and Surgeon's Certificate No. A 83402, issued to respondent John Edward Humiston, M.D.;

2. Revoking, suspending or denying approval of respondent John Edward Humiston, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering respondent John Edward Humiston, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: March 7, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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